

Commonwealth of Kentucky Energy and Environment Cabinet

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Division of Water clarifies requirements for utility construction near streams *Changes intended to protect water quality*

FRANKFORT, Ky. (Jan. 17, 2013) – The Kentucky Division of Water (DOW) is issuing clarification of state certification requirements regarding the placement of utility lines near streams. Projects that typically require the acquisition of the Section 401 water quality certification include water, gas, oil and sewer line installations.

The clarification involves general certification of the U.S. Army Corps of Engineers' Nationwide Permit #12, Utility Line Backfill and Bedding. Specifically, applicants for the certification are now required to submit a water quality certification application and a sediment and erosion control plan in order to qualify for a general certification.

Barbara Scott, supervisor of DOW's Water Quality Certification Section, said the new certification requirements will expedite the application process while enhancing protection of the water of the Commonwealth.

"It's important to ensure a project does not degrade water quality so Kentucky's waters will remain safe for a wide range of uses, such as drinking water, recreation, fish habitat and aquatic life," Scott said.

Section 401 of the federal Clean Water Act requires that any federal license or permit to conduct an activity that may result in a discharge to waters of the United States must first receive a water quality certification from the state in which the activity will occur. There is a direct delegation from Congress to the states and allows each state an opportunity to ensure that federally approved activities will meet water quality standards and policies established by the state under the Clean Water Act. In Kentucky, DOW is the agency responsible for reviewing proposed projects under this requirement.

Attached is DOW's policy guideline, "Water Quality Certification of Utility Line Activities Along Streams." The policy guideline is also available online [here](#).

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